

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Group Art Unit 3723

In re

Patent Application of

Joachim Zimmer

Application No. 10/579,646

Confirmation No.: 9354

Filed: May 18, 2006

Examiner: Dung V. Nguyen

“WIPER SYSTEM FOR WIPING A
WINDSCREEN”

APPEAL BRIEF

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Appeal Brief is filed with the Board of Patent Appeals and Interferences in response to the Office action dated August 12, 2010, in which the Examiner finally rejected claims 1-18, and the Advisory action dated November 18, 2010, and is further to the Notice of Appeal filed December 3, 2010.

The appeal brief fee under 37 CFR 41.20(b)(2) in the amount of \$540.00 is being paid by credit card. Please charge any additional fees or credit any overpayment to Deposit Account No. 13-3080.

(1) **Real Party in Interest**

The real party in interest is Robert Bosch GmbH, to which the inventors assigned their entire right, title, and interest in and to the invention in the assignment recorded February 4, 2007 at reel/frame 018888/0987.

(2) **Related Appeals and Interferences**

There are no related appeals or interferences.

(3) **Status of Claims**

Claims 1-18 are pending and are finally rejected by the Examiner. Applicants appeal the rejection of claims 1-18.

The claims stand rejected as follows:

Claims 1-18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kinoshita (US 6,314,607) in view of Stevens (US 4,864,678).

(4) **Status of Amendments**

There are no outstanding amendments.

(5) **Summary of Claimed Subject Matter**

Independent claim 1 recites a wiper device (1) that wipes a windshield (5) of a motor vehicle with a wiper arm (10) and two connecting rod levers (8) (¶30-32; Figs. 1-3, 8). The connecting rod levers (8) are connected to the wiper arm (10) in a plane at fastening points (9) so they can move rotationally (¶26, 30-32; Figs. 1-3, 8). At least one of the connecting rod levers (8) is elastic essentially perpendicular to the wiper plane to exert pressure force from the wiper arm (10) on the windshield (¶7, 27, 36-42; Figs. 6a, 6b, 9).

(6) **Grounds of Rejection to be Reviewed on Appeal**

Whether the Examiner erred in rejecting claims 1-18 under 35 U.S.C. §103(a) as being unpatentable over Kinoshita (US 6,314,607) in view of Stevens (US 4,864,678).

(7) **Argument**

Claims 1-18 stand finally rejected under 35 U.S.C. §103(a) as being unpatentable over Kinoshita (US 6,314,607) in view of Stevens (US 4,864,678).

Kinoshita discloses a wiper device 10 having a wiper arm 12 and a quadric linking mechanism comprising a main lever 14 or drive lever and a sub-lever 16 or control lever. Kinoshita does not discuss how to effect a pressure force from a wiper arm on a windshield.

Stevens discloses a windshield wiper with a wiper arm 1 that is directly connected to a rotary driving spindle 8 and is resiliently biased downwardly to effect a pressure force on the windscreen 5. Stevens does not disclose a windshield wiper comprising one or more levers. In particular, element 14 in Stevens refers to a limb in a region 12 of the arm 1, not to a rod lever as stated in the first Office Action.

Neither Kinoshita nor Stevens mentions that a rod lever may be executed to be elastic to effect a pressure force from the wiper arm on the windshield.

The examiner points to *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981) for the reminder that the test of obviousness is what the combined teachings of the references would have suggested to those of ordinary skill in the art. Applicant asserts that *In re Keller* supports Applicant's position because *the combined teachings of the references do not suggest each and*

every element of the claims to those of ordinary skill in the art. Rather, the combined teachings of Kinoshita and Stevens would suggest to those of ordinary skill in the art a windshield wiper having a quadric linking mechanism of Kinoshita and a resiliently biased arm of Stevens. The combined teachings of Kinoshita and Stevens would result in a windshield wiper with rigid levers and an elastic arm, which is different from the subject matter of claims 1-18. The windshield wiper suggested by the combined teachings of Kinoshita and Stevens does not meet the limitations of claims 1-18.

Additionally, there would have been no reason to further modify the windshield wiper resulting from the combined teachings of Kinoshita and Stevens to somehow meet the limitations of claims 1-18. Specifically, there would have been absolutely no motivation to modify the wiper system of Kinoshita such that one of the levers connected to the wiper arm is executed to be elastic to effect a pressure force from the wiper arm on the windshield. Neither Kinoshita nor Stevens provides any hint to such a modification. Such a modification is based upon impermissible hindsight.

The examiner further points to *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971) regarding reconstruction based upon hindsight reasoning. The examiner notes that such a reconstruction is proper as long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure. However, the reconstruction proposed by the examiner does indeed include subject matter gleaned only from Applicant's disclosure. This is, by very definition, impermissible hindsight. Specifically, in order to meet the limitations of claims 1-18, a person of ordinary skill in the art would have had to modify one of the levers of Kinoshita. Neither Kinoshita nor Stevens provide any motivation for doing so. Kinoshita does not discuss how a pressure force between the wiper arm and the windshield can be created, and consequently does not provide any suggestion that such a pressure force may be created by executing one of the levers elastically. Stevens does not mention any levers at all and therefore, does not mention a possibility of creating a pressure force by executing a lever elastically, either. Consequently, a person skilled in the art would have had *no* motivation to modify one of the levers of Kinoshita to be elastic. The *only* way one of ordinary skill in the art would combine the teachings of Kinoshita and Stevens to achieve the claimed windshield wiper is through impermissible hindsight reasoning.

In the Advisory Action, the examiner points to col. 2, lines 40-47 of Stevens for the disclosure that wiper arm 1 includes a length 11 and a split region 12 that act as a spring to bias the wiper arm 1 against the windscreen 5. However, the combination of Kinoshita and Stevens does not teach or suggest each and every element of claim 1 to a person of ordinary skill in the art. Kinoshita does not mention effecting a pressure force on the windshield at all. Consequently, a person of ordinary skill in the art would have had no reason to incorporate teachings related to the exertion of force into the teachings of Kinoshita. Even if that person of ordinary skill in the art wanted to increase or otherwise modify the force effected from the wiper arm of Kinoshita on the windshield, and would therefore have sought inspiration in Stevens (which Applicants do not concede), the wiper arm described by Stevens may be incorporated into the wiper system of Kinoshita. A combination of the teachings of Kinoshita and Stevens would therefore have resulted in a wiper system comprising a quadric linking mechanism with two levers (as taught by Kinoshita) and an elastic wiper arm (as taught by Stevens) that is elastic to bias the wiper blade against the windshield. In contrast, claim 1 requires a wiper device having a wiper arm and two connecting rod levers, such that at least one of the connecting rod levers is elastic essentially perpendicular to the wiper plane to effect a pressure force from the wiper arm on the windshield.

Kinoshita and Stevens, taken alone or in combination, do not teach or suggest each and every element of claim 1. Therefore, claim 1 is allowable over Kinoshita and Stevens. Claims 2-18 depend from claim 1 and are allowable for the same and other reasons not specifically set forth herein.

Respectfully submitted,

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(8) Claims Appendix

What is claimed is:

1. (Original) Wiper device (1) to wipe a windshield (5) of a motor vehicle with a wiper arm (10) and two connecting rod levers (8), wherein the connecting rod levers (8) are connected to the wiper arm (10) in a plane at fastening points (9) so they can move rotationally, wherein at least one of the connecting rod levers (8) is executed to be elastic essentially perpendicular to the wiper plane in order to effect a pressure force from the wiper arm (10) on the windshield.
2. (Original) Wiper device (1) according to Claim 1, wherein one of the connecting rod levers (8) is a drive lever (81) and another of the connecting rod levers (8) is a control lever (82), wherein the wiper arm (10) is moved by swiveling the drive lever (81) around a swivel axis (11).
3. (Previously Presented) Wiper device (1) according to Claim 1, wherein the wiper arm is designed to be non-articulated.
4. (Previously Presented) Wiper device according to Claim 1, wherein at least one of the connecting rod levers (8) is pre-stressed in an installed state.
5. (Previously Presented) Wiper device (1) according to Claim 1, wherein the wiper arm (10) is connected to a wiper blade (12) via a swivel joint.
6. (Previously Presented) Wiper device (1) according to Claim 1, wherein the connecting rod levers (8) each feature a fold-out mechanism in order to swivel the wiper arm (10) into a maintenance position [so] that a wiper blade (12) connected to the wiper arm (10) can be serviced or replaced, wherein the connecting rod levers (8) are designed such that in the maintenance position they are able to project at an angle from the wiper plane so the wiper arm (10) is accessible.

7. (Original) Wiper device (1) according to Claim 6, wherein the connecting rod levers each feature a snap-in device (17) in order to hold the connecting rod levers (8) in the maintenance position, wherein the connecting rod levers are designed such that they are able to exit the maintenance position by moving the connecting rod levers back into the wiper plane with a restoring force.
8. (Previously Presented) Wiper device (1) according to Claim 1, wherein the fastening parts of the connecting rod levers (8) and/or the connecting rod levers (8) are manufactured of a deep-drawing material.
9. (Previously Presented) Wiper device (1) according to Claim 1, wherein the connecting rod levers (8) are coupled with the wiper arm (10) at the fastening points with a caulked fastening element (16).
10. (Previously Presented) Wiper device according to Claim 1, wherein at least one of the connecting rod levers (8) is provided with a first cross-section in a first section facing the swivel axis and a second smaller cross-section in a second section facing the fastening point in order to adjust the pressure force.
11. (Previously Presented) Wiper device (1) according to Claim 2, wherein the wiper arm is designed to be non-articulated.
12. (Previously Presented) Wiper device according to Claim 11, wherein at least one of the connecting rod levers (8) is pre-stressed in an installed state.
13. (Previously Presented) Wiper device (1) according to Claim 12, wherein the wiper arm (10) is connected to a wiper blade (12) via a swivel joint.

14. (Previously Presented) Wiper device (1) according to Claim 13, wherein the connecting rod levers (8) each feature a fold-out mechanism in order to swivel the wiper arm (10) into a maintenance position so that a wiper blade (12) connected to the wiper arm (10) can be serviced or replaced, wherein the connecting rod levers (8) are designed such that in the maintenance position they are able to project at an angle from the wiper plane so the wiper arm (10) is accessible.

15. (Previously Presented) Wiper device (1) according to Claim 14, wherein the connecting rod levers each feature a snap-in device (17) in order to hold the connecting rod levers (8) in the maintenance position, wherein the connecting rod levers are designed such that they are able to exit the maintenance position by moving the connecting rod levers back into the wiper plane with a restoring force.

16. (Previously Presented) Wiper device (1) according to Claim 15, wherein the fastening parts of the connecting rod levers (8) and/or the connecting rod levers (8) are manufactured of a deep-drawing material.

17. (Previously Presented) Wiper device (1) according to Claim 16, wherein the connecting rod levers (8) are coupled with the wiper arm (10) at the fastening points with a caulked fastening element (16).

18. (Previously Presented) Wiper device according to Claim 17, wherein at least one of the connecting rod levers (8) is provided with a first cross-section in a first section facing the swivel axis and a second smaller cross-section in a second section facing the fastening point in order to adjust the pressure force.

(9) **Evidence Appendix**

None.

(10) **Related Proceedings Appendix**

None.